

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

)	
UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 2:18-CR-00124-JDL
)	
GREGORY MARTIN)	
Defendant)	
)	

**DEFENDANT GREGORY MARTIN’S SUPPLEMENT TO HIS MOTION TO
RECONSIDER AND ASSIGNMENT OF COUNSEL
(BY UNDERSIGNED COUNSEL)**

NOW COMES the Defendant, Gregory Martin, by and through undersigned Counsel (not yet assigned) and respectfully supplements Mr. Martin’s § 2255 Motion. In support thereof, Counsel states as follows:

BACKGROUND

Gregory Martin was charged with Possession with Intent to Distribute Cocaine Base in violation of U.S.C. §21:841(a)(1). *ECF #1*. Mr. Martin filed a Motion to Suppress on November 14, 2018. *ECF #36*. One of the arguments presented in the Motion to Suppress was that the arresting officer, Trooper John Darcy, did not have a

reasonable basis to stop the motor vehicle. *Id.*¹ This Court denied that Motion. *ECF #56.*

Gregory Martin appeared before this Court on July 1, 2019 and entered a plea of guilty to Possession with Intent to Distribute Cocaine Base. *ECF #61.* The matter was set for sentencing. *Id.* It was continued due to probation's request to attain relevant records. *ECF #64,68,71.* On March 2, 2020, Mr. Martin was sentenced to 84 months incarceration with four years supervised release. *ECF #78.* Subsequent to Mr. Martin's plea, but prior to his sentencing, the Government became aware of a video where Trooper Darcy discussed profiling. See *United States v. Walker, CMECF 2:19-cr-00220.* The specific exchange by Trooper Darcy is as follows:

John Darcy: "Like, if I see a white thug, I'm going to be interested, just like a black thug or a fucking Chinese thug. Like, I'm interested in thugs. That's not racial profiling. Like, some black guy goes by, and he's just like a normal dude from Portland, I don't give a fuck. You know what I mean, like whatever. This guy kinda looks like a thug to be honest with you."

Patrick Pescitelli: "The guy... you see the guy driving?"

John Darcy: "Yeah, he's wearing a wifebeater, he's got dreads. He looks like a thug. He may not be . . . and I'm not profiling him racially because I don't care that he's white or black. White kid, neck tats all over him, fucking sideways hat, thug. You know what I mean? So like . . . I get . . . I hate when people try to make it seem like that's what it is. I care about where people are from, and the way they seem . . . you know what I mean? Do they seem like they can be involved in drug dealing or gangs or something. I don't give a fuck if someone's black or white. Like . . . and I like saying this, like Nicole has a niece who is half-black. I'll tell someone, 'Dude, my fucking niece is half-black.' Like, don't play that racial shit with me." *United States v. Walker, CMECF 2:19-cr-00220; ECF#55, 56, 58.*

¹ The Trooper testified and the hearing court accepted the testimony that the operator was showing signs of an impaired driver. This was not captured on video.

In another matter, involving Trooper Darcy, the Government informed counsel as to the existence of the video before that Defendant entered a plea. See *United States v. Fagan*, 2:19-CR-00123-DBH; ECF #106.

REQUEST FOR ASSIGNMENT OF COUNSEL

Due to COVID-19 lockdowns, Mr. Martin's contact with undersigned counsel has been limited. Mr. Martin has also been limited in his access to the prison law library. See ECF #104, 105 (*Martin Declaration*). In these unprecedented times, undersigned counsel seeks this assignment on behalf of Mr. Martin to pursue the legal arguments and possible remedies in this matter.

BASIS FOR MOTION

It is Mr. Martin's contention that had information related to Trooper Darcy been provided, as it was in at least one other matter, before he pleaded guilty, he could have filed a Motion to Reopen/Reconsider the Suppression Hearing. Therefore, his conditional guilty plea was not knowingly and voluntary as he has other legal options before the plea.

WHEREFORE, Mr. Martin respectfully requests this Honorable Court assign counsel to assist in exploring the legal arguments available to Mr. Martin together with any and all other relief that is fit and just.

Dated this 20th day of December 2020 at Portland, Maine.

Respectfully submitted,

/s/ David J. Bobrow, Esq.
Attorney for Defendant
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CERTIFICATE OF SERVICE

I, David J. Bobrow, Esq., hereby certify that I have caused to be served via ECF the Defendant's Motion Supplement and for the assignment of counsel on the following individuals:

1. Todd Lowell, Esq. at todd.lowell@usdoj.gov;
2. All other attorneys of record in this matter.

Dated this 20th day of December 2020 at Portland, Maine.

Respectfully submitted,

/s/ David J. Bobrow, Esq.
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